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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,895	02/04/2005	Fortunato Fedegari	47966.9.1	1054
22859	7590	02/27/2006		
INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET SUITE 4000 MINNEAPOLIS, MN 55402				
			EXAMINER FRISTOE JR, JOHN K	
			ART UNIT 3751	PAPER NUMBER
DATE MAILED: 02/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

58

<b>Office Action Summary</b>	Application No. 10/523,895	Applicant(s) FEDEGARI, FORTUNATO	
	Examiner John K. Fristoe Jr.	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/4/2005</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 2/4/2005 is acknowledged by the examiner.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: “favour” should be replaced with “favor”. Appropriate correction is required.
3. Claim 5 is objected to because of the following informalities: “plan” should be replaced with “plane” line 2. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation TEFLON in line 2. It is important to recognize that a trademark or trade name is used to identify a source of goods, and not the goods themselves. If a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, then the claim does not comply with the requirements of 35 USC 112, second paragraph (see MPEP 2173.05(u)). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product.

Art Unit: 3751

6. Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner what structure is being referred to as the “circular ring” in claim 7 line 5. Is the “circular ring” referring to the “abutment surface” or the “circular disk?”

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,826,132 (Moldenhauer). Moldenhauer discloses a valve comprising a body (1), a first duct (within member 25 in figure 1), a second duct (adjacent arrow Z in figure 1) which extends transversely relative to the core (10), a closure member (10 and 12) having a central core (10), wherein the central core (10) has an end (top portion of the central core in figure 1) associated (via element 9) with actuator means (4), a flexible circular disc (12), wherein the core (10) has a head having a diverging profile (element 10 in figure 1), wherein the disc (12) is connected to the internal wall (adjacent element 23 in figure 1) of the second duct (adjacent arrow Z in figure 1) without discontinuities, and wherein the closure member (10 and 12) closes the first duct (within member 25 in figure 1).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-5 and 6 as far as it is definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,826,132 (Moldenhauer) in view U.S. Pat. No. 4,917,357 (Danko). Moldenhauer discloses a valve comprising a body (1), a first duct (within member 25 in figure 1), a second duct (adjacent arrow Z in figure 1) which extends transversely relative to the core (10), a closure member (10 and 12) having a central core (10), wherein the central core (10) has an end (top portion of the central core in figure 1) associated (via element 9) with actuator means (4), a flexible circular disc (12), wherein the are of the disc in a plane is 10-20% greater (figure 1) than the cross section of the first duct (within member 25 in figure 1), wherein the core (10) has a head having a diverging profile (element 10 in figure 1), wherein the diverging angle is between 20 and 45 degrees (figure 1), wherein the disc (12) is connected to the internal wall (adjacent element 23 in figure 1) of the second duct (adjacent arrow Z in figure 1) without discontinuities, wherein the closure member (10 and 12) closes the first duct (within member 25 in figure 1), and wherein the closure member (10 and 12) is made of either PTFE, EPDM, TEFLON or a similar polymer material (col. 3, lines 38-39) but lacks the second duct is curved so as to favor the flow of the fluid from the valve when it is mounted with the valve body disposed above the actuator means. Danko teaches a valve comprising a body (B) and a second duct (22) that is curved so as to favor the flow of the fluid from the valve when it is mounted

Art Unit: 3751

with the valve body disposed above the actuator means (44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the valve having a transverse duct of Moldenhauer by curving the second duct that is curved so as to favor the flow of the fluid from the valve when it is mounted with the valve body disposed above the actuator means as taught by Danko in order to connect a pipe at an angle to the duct.

11. Claim 7 as far as it is definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,826,132 (Moldenhauer) in view U.S. Pat. No. 4,917,357 (Danko) as applied to claim 6 above, and further in view of U.S. Pat. No. 5,820,105 (Yamaji et al.). Moldenhauer modified above, discloses a valve comprising a body (1), a first duct (within member 25 in figure 1), a second duct (adjacent arrow Z in figure 1) which extends transversely relative to the core (10), a closure member (10 and 12) having a central core (10), wherein the central core (10) has an end (top portion of the central core in figure 1) associated (via element 9) with actuator means (4), a flexible circular disc (12), wherein the area of the disc in a plane is 10-20% greater (figure 1) than the cross section of the first duct (within member 25 in figure 1), wherein the core (10) has a head having a diverging profile (element 10 in figure 1), wherein the diverging angle is between 20 and 45 degrees (figure 1), wherein the disc (12) is connected to the internal wall (adjacent element 23 in figure 1) of the second duct (adjacent arrow Z in figure 1) without discontinuities, wherein the closure member (10 and 12) closes the first duct (within member 25 in figure 1), wherein the closure member (10 and 12) is made of either PTFE, EPDM, TEFLON or a similar polymer material (col. 3, lines 38-39), and a curved second duct but lacks a sealing ring between the disc and the actuator body. Yamaji et al. teach a valve comprising a body (1), a circular disc (2), an actuator body (3), and a sealing ring (7) which is between the actuator body

Art Unit: 3751

(3) and the circular disc (2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify valve comprising a disc of Moldenhauer by adding a sealing ring between the actuator body and the circular disc as taught by Yamaji et al. in order to seal the valve chamber from the actuator body.

### *Allowable Subject Matter*

12. Claims 8-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

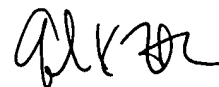
U.S. Pat. No. 5,152,500 (Hoobyar et al.) disclose a diaphragm valve having a diverging head.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John K. Fristoe Jr.  
Examiner  
Art Unit 3751

JKF



EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

2/26/06